

METROPOLITAN AREA PLANNING COMMISSION

Minutes

July 11, 2013

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 11, 2013 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: David Dennis, Chair; David Foster; Bill Johnson; Don Klausmeyer; John W. McKay Jr.; Debra Miller Stevens; M.S. Mitchell; Carol Neugent and Chuck Warren. Steve Anthimides; Matt Goolsby; Joe Johnson; and Don Sherman and George Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jess McNeely, Senior Planner; Jeff Vanzandt, Assistant City Attorney, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. There were no meeting minutes to approve from the June 20, 2013 meeting.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2012-00027: Final Plat – THE RANCH ADDITION**, located south of 21st Street North, on the west side of 159th Street East.

NOTE: This is an unplatted site located in the City.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that sanitary sewer needs to be extended to serve all lots (lateral and main). Water needs to be extended to serve all lots (distribution and transmission), except for Lots 29 and 32, Block A. Lots 29 and 32, Block A have water available and will need specific rights across Reserve B and Reserve C, to connect to the existing water main. Lots 29 and 32, Block A will need to pay in-lieu-of fees for distribution and transmission.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering advises that the private water service lines for Lots 29 and 32, Block A cross Reserves B and C and should be added as a permitted use in the plat's text, and be confined to private easements.
- D. City Stormwater Management has approved the drainage plan subject to additional easements. A restrictive covenant or agreement shall be provided regarding maintenance of the private storm sewers.
- E. Traffic Engineering has approved the access controls. The plat proposes complete access control along 159th Street North except for one street opening and two access openings across the reserves for Lots 29 and 32.
- F. The applicant shall guarantee the paving of the private street (Reserve H) to a public street paving standard. As a private improvement, such guarantee shall not be provided through the use of a petition.

- G. County Surveying requests correction for the curve data for the west end of Reserve A.
- H. County Surveying requests the extension of the drainage and utility easement to the north property line of Lots 4 and 5, Block A.
- I. A restrictive covenant shall be submitted regarding the private street (Reserve H), which sets forth ownership and maintenance responsibilities.
- J. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. Due to the street length of Rockhill Court, an emergency access easement was platted extending from the north cul-de-sac to the north line of the plat. An emergency access easement shall be provided by separate instrument extending to 21st Street North. City Fire Department has approved the emergency access easement.
- N. The paving guarantee shall include the construction of a paved roadway surface for the emergency access easement. The emergency access easement (both on-site and off-site) shall be established by separate instrument. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance. Standard gating and signing are required per City Fire Department standards.
- O. GIS has approved the plat's street names. "159th St E" shall be labeled correctly.
- P. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.

- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- T. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- Y. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, **MITCHELL** seconded the motion, and it carried (9-0).

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- 2-2. SUB2013-00028: One-Step Final Plat – MAPLE SHADE 2ND ADDITION**, located north of Pawnee, on the east side of Webb Road.

NOTE: This is a replat of a portion of the Maple Shade Addition.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that sanitary sewer is available and in-lieu-of fees for lateral will be due. Water is available to Lot 1, Block 1 and in-lieu-of fees for distribution and transmission will be due. Water needs to be extended for Lots 2 and 3, Block 1 (distribution and transmission).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Public Works advises that a sign easement encroaches into a 20-foot utility easement and a 10-foot drainage and utility easement. The sign easement needs to be platted separately from the other easements.
- D. The plat need to show where the 20-foot drainage and utility easement along the south line of Lot 3, Block 1 changes to a utility easement.
- E. City Stormwater Management has approved the applicant's drainage plan.
- F. Traffic Engineering has approved the access controls. The plat proposes complete access control along Webb Road.
- G. Traffic Engineering has approved the 50-foot right-of-way along Webb Road.
- H. The spelling of "benchmark" shall be corrected.
- I. A restrictive covenant shall be submitted regarding Reserve A, platted for private drive purposes, which sets forth ownership and maintenance responsibilities of the private drive. The plat's text shall reference the platting of the reserve for private drive purposes and shall state which specific lots are to be accessed by the reserve.
- J. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- K. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The width of the pipeline easement needs to be denoted accurately. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.

- M. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- P. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- U. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, **MITCHELL** seconded the motion, and it carried (9-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2013-00018: City request to vacate a platted easement, generally located east of Ridge Road, south of 13th Street North, on the east side of North Shore Boulevard.

APPLICANT/OWNER: Gary K. Edminster (applicant/owner)

LEGAL DESCRIPTION: Generally described as vacating the platted 10-foot wide utility easement that runs parallel to the south line of Lot 1, Gary Edminster Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located east of Ridge Road, south of 13th Street North, on the east side of North Shore Boulevard (WCC #V)

REASON FOR REQUEST: No utilities located in easement

CURRENT ZONING: The site and all abutting and adjacent properties are zoned SF-5 Single-Family Residential (“SF-5”).

The applicant proposes to vacate the platted east-west 10-foot wide utility easement (subject easement) that runs parallel to the south lot line of Lot 1, Gary Edminster Addition. Since the recording of the Gary Edminster Addition (March 14, 1984) the applicant has acquired another, unplatted 0.2-acres (approximately 30’ {x} 335’) of land located along the south side of the subject easement. The Spinnaker Coves Hoskinson Addition, with a platted 20-foot wide utility easement, abuts the south side of the applicant’s unplatted tract. There is a sewer manhole in the east end of the subject easement, which intersects with a platted north-south 10-foot wide utility easement that runs parallel to the east lot line of Lot 1, Gary Edminster Addition. The north-south easement has a sewer line in it. There are no other utilities located in the easement.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted utility easement.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 20, 2013, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the described platted utility easement and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) To protect the manhole and sewer line located in the east portion of the platted 10-foot wide utility easement; (a) Retain the west 10-20 feet of the platted 10-foot utility easement that runs parallel to the south lot line of Lot 1, Gary Edminster Addition, and; (b) If necessary dedicate an additional 10-20 feet of easement on northeast side of the unplatted tract.
- (2) Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers or approval by the franchised utility representatives to Planning prior to the case going to City Council for final action.
- (3) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (4) Provide Planning with a legal description of the vacated utility easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) To protect the manhole and sewer line located in the east portion of the platted 10-foot wide utility easement; (a) Retain the west 10-20 feet of the platted 10-foot utility easement that runs parallel to the south lot line of Lot 1, Gary Edminster Addition, and; (b) If necessary dedicate an additional 10-20 feet of easement on northeast side of the unplatted tract.
- (2) Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers or approval by the franchised utility representatives to Planning prior to the case going to City Council for final action.
- (3) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (4) Provide Planning with a legal description of the vacated utility easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.

- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

KLAUSMEYER moved, **B. JOHNSON** seconded the motion, and it carried (9-0).

- **3-2. VAC2013-00019: County request to vacate a platted floodway reserve,** generally located between K-96 and 151st Street West, on the north side of 69th Street North.

APPLICANT/AGENT: Susan J. Havener (applicant/owner) Certified Engineer Design, PA, c/o Harland Foraker (agent)

LEGAL DESCRIPTION: Generally described as a portion of the platted floodway reserve located on a portion of Lot 4, Block 1, Imbler Estates 2nd Addition and Lots 6 & 7, Block 3, Imbler Estates Addition (see attached legal and exhibit)

LOCATION: Generally located between K-96 and 151st Street West on the north side of 69th Street North (BoCC #3)

REASON FOR REQUEST: Relocate floodway reserve for additional building space

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned RR Rural Residential ("RR")

The applicant is requesting consideration to vacate a portion of the platted floodway reserve located on a portion of Lot 4, Block 1, Imbler Estates 2nd Addition and Lots 6 & 7, Block 3, Imbler Estates Addition. Both subdivision's plat's text states the floodway reserve shall be owned and maintained by the abutting lot owners. Both also state that no buildings, grading, fill or creation of channels can happen within the floodway reserve unless approved by the appropriate governing body. The Imbler Estates Addition's plat's text further states that approval by the Kansas State Board of Agriculture is required. The applicant proposes to relocate the floodway reserve further south to allow more room for residential development. The subject floodway reserve is not located within a FEMA Flood Zone or Floodway. With the exception of drainage, there are no utilities located in the platted floodway reserve. The properties are located within the City of Colwich's Area of Zoning Influence, which requires the vacation request to go to the Colwich Planning Commission for recommendation, prior to proceeding to the County Commission for final action. The Imbler Estates Addition was recorded with the Sedgwick County Register of Deeds June 19, 2003. The Imbler Estates 2nd Addition was recorded with the Sedgwick County Register of Deeds October 20, 2009.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Engineering, County Fire, franchised

utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted floodway reserve.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 20, 2013, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the described platted floodway reserve and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense. If necessary provide all plans and any guarantees needed by utilities to ensure improvements will be completed. This must be provided prior to the case going to the County Commission for final action.
- (2) All improvements shall be according to County Standards and at the expense of the applicant, including any drainage improvements/infrastructure. If necessary provide all plans and any guarantees needed by County Public Works to ensure improvements will be completed. This must be provided prior to the case going to the County Commission for final action.
- (3) Provide a legal description of the vacated portion of the platted floodway reserve as approved by County Public Works. Provide to Planning on a Word document, via e-mail to be used on the Vacation Petition and Vacation Order. This must be provided prior to the case going to County Commission for final action.
- (4) Provide a dedication, by separate instrument, of a floodway reserve to be recorded with the Vacation Order. This must be provided prior to the case going to the County Commission for final action.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense. If necessary provide all plans and any guarantees needed by utilities to ensure improvements will be completed. This must be provided prior to the case going to the County Commission for final action.
- (2) All improvements shall be according to County Standards and at the expense of the applicant, including any drainage improvements/infrastructure. If necessary provide all plans and any guarantees needed by County Public Works to ensure improvements will be completed. This must be provided prior to the case going to the County Commission for final action.
- (3) Provide a legal description of the vacated portion of the platted floodway reserve as approved by County Public Works. Provide to Planning on a Word document, via e-mail to be used on the Vacation Petition and Vacation Order. This must be provided prior to the case going to County Commission for final action.
- (4) Provide a dedication, by separate instrument, of a floodway reserve to be recorded with the Vacation Order. This must be provided prior to the case going to the County Commission for final action.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

KLAUSMEYER moved, **B. JOHNSON** seconded the motion, and it carried (9-0).

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- 3-3. VAC2013-00020: City request to vacate a platted drainage and utility easement,**
generally located east of 151st Street East, south of Maple Street, on the northeast corner of Hayden and Fawnwood Streets.

APPLICANT/AGENT: West Wichita Development (applicant/owner) Baughman Company, PA, c/o Phil Meyer (agent)

LEGAL DESCRIPTION: Generally described as a portion of the platted drainage and utility easement located on the common lot line of Lots 7 & 8, Block F, Auburn Hills 16th Addition (see attached legal and exhibit)

LOCATION: Generally located east of 151st Street West, south of Maple Street, on the northeast corner of Fawnwood and Hayden Streets (WCC #4)

REASON FOR REQUEST: For additional building space

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned SF-5 Single-Family Residential (“SF-5”)

The applicant is requesting consideration to vacate a portion of the platted drainage and utility easement located on the common lot line of Lots 7 & 8, Block F, Auburn Hills 16th Addition. There are no utilities located within the subject easement. The Auburn Hills 16th Addition was recorded with the Sedgwick County Register of Deeds February 3, 2006.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted drainage and utility easement.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 20, 2013, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the described platted drainage and utility easement and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide Planning with a legal description of the vacated easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (2) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Planning with a legal description of the vacated easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.

- (2) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

KLAUSMEYER moved, **B. JOHNSON** seconded the motion, and it carried (9-0).

- **3-4. VAC2013-00021: City request to vacate a platted alley,** generally located east of K-15, south of Harry Street, on the east side of Lulu Avenue.

APPLICANT/AGENT: Wichita Table Tennis Center (applicant) Poe & Associates, c/o Tim Austin (agent)

LEGAL DESCRIPTION: Generally described as the platted 20-foot wide west-east alley abutting Lulu Avenue (west side), Lots 1 & 2, Replat of Part of Kitchenmeister's Subdivision of Block 3, Schweiters 2nd Addition (north side), Lot 21, F & K Kitchenmeister's Addition (south side) and the west side of the platted north-south alley as recorded on the F & K Kitchenmeister's Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located east of K-15, south of Harry Street, on the east side of Lulu Avenue (WCC #I)

REASON FOR REQUEST: Requirement of PUD2013-00001, to allow additional parking

CURRENT ZONING: The subject site is public alley right-of-ways. The abutting and adjacent properties are zoned TF-3 Two-Family Residential ("TF-3") and B Multi-Family Residential ("B").

The applicant is requesting the vacation of the platted 20-foot wide west-east alley. The subject alley intersects with a platted 20-foot wide north – south alley; the proposed vacation will not create a dead-end alley. Stormwater request plans for review to determine drainage. There are no other utilities located within the alley. The Replat of Part of Kitchenmeister's Subdivision of Block 3, Schweiters 2nd Addition was recorded with the Register of Deeds April 7, 1950.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted alley.

- A. That after being duly and fully informed as to fully understand the true nature of this petition

and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 20, 2013, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the described platted alley and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) If needed dedicate the vacated described platted east-west alley as a drainage-utility easement, as determined by Stormwater. The approved dedication with original signatures must be provided to Planning prior going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) Provide a restrictive covenant with original signatures binding and tying the vacated east-west alley to the abutting north and south properties. The restrictive covenant(s) must be provided to Planning prior going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Provide a legal description of the vacated alley ROWs, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed, provide required guarantees or approved projects to ensure relocation and/or relocation of franchise utilities.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) If needed dedicate the vacated described platted east-west alley as a drainage-utility easement, as determined by Stormwater. The approved dedication with original signatures must be provided to Planning prior going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (2) Provide a restrictive covenant with original signatures binding and tying the vacated east-west alley to the abutting north and south properties. The restrictive covenant(s) must be provided to Planning prior going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Provide a legal description of the vacated alley ROWs, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed, provide required guarantees or approved projects to ensure relocation and/or relocation of franchise utilities.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

KLAUSMEYER moved, **B. JOHNSON** seconded the motion, and it carried (9-0).

PUBLIC HEARINGS

4. **Case No. ZON2013-00014** – Randle and Frankie Ward (owners) request City zone change from SF-5 Single-Family Residential to NR Neighborhood Retail on property described as:

Lots 13, 15, 17, 19, 21 and 23, on Madge Avenue, Crawford Addition to Wichita, Sedgwick County, Kansas.

MOTION: To defer the application.

WARREN moved, **MITCHELL** seconded the motion, and it carried (9-0).

5. **Case No.: ZON2013-00015** – Wapenschaw, LLC and LCS Builders, Inc./ Poe & Associates, Inc. (Tim Austin) request City zone change from SF-5 Single-Family Residential to TF-3 Two-Family Residential (Lots 9-13, the three southernmost lots) and MF-18 Multi-Family Residential with a Protective Overlay (Lots 7 - 8, the two westernmost lots) on property described as:

Lots 7, 8, 9, 10, 11, 12 and 13, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area is seven platted lots zoned SF-5 Single-family Residential (TF-3) that contains 1.02 acres located north of East Majestic Street and east of North Brookhaven Drive. The applicants are seeking TF-3 Two-family Residential (TF-3) zoning on Lots 9-13, Block 2, Terradyne West Addition (the five southernmost lots) and MF-18 Multi-family Residential (MF-18) zoning subject to a Protective Overlay that limits Lots 7 and 8, Block 2, Terradyne West Addition (the two westernmost lots) to single-family, duplex or triplex residential structures. (The map shown above shows the original five platted lots. Lot splits and/or boundary shifts done after platting have created two additional building sites not shown on the graphic.)

All of these lots back up to a golf driving range that is zoned SF-5. Further north is the Kansas Turnpike. Land to the east is zoned SF-5, is part of a golf driving range/course or is platted for single-family residential. South across East Majestic Street and East Sharon Lane are single-family residences zoned SF-5. Land to the west is also zoned SF-5, and is developed with the golf driving range/course. Lots located to the extreme eastern edge of the driving range, on North Prairie Dunes Street, have previously been zoned MF-18 and TF-3.

CASE HISTORY: Terradyne West Addition, Wichita, Sedgwick County, Kansas, which was recorded with the Register of Deeds December 6, 2006, and was annexed into the City of Wichita in October of 2006.

ADJACENT ZONING AND LAND USE:

North: SF-5; driving range/golf course
South: SF-5; single-family residences
East: SF-5; golf course/driving range, single-family residences
West: SF-5; golf course

PUBLIC SERVICES: Municipal services are available or are available for extension to serve the subject site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban development mix,” and the site is located within “Wichita’s 2030 urban growth area.” The urban development mix encompasses areas of land that will likely be developed or redeveloped with the next 30 years with uses predominately found in the “urban residential” category.

RECOMMENDATION: Based upon the information available at the time this report was prepared, staff recommends approval of the TF-3 and MF-18 zoning, the proposed MF-18 lots subject to Protective Overlay (PO) #276. PO #276 restricts Lots 7 and 8, Block 2, Terradyne West Addition to the following uses: single-family residential, two-family residential or three-family residential uses.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The application area backs up to a golf driving range that is zoned SF-5. Further north is the Kansas Turnpike. Land to the east is zoned SF-5, is part of a golf driving range/course or is platted for single-family residential. South across East Majestic Street and East Sharon Lane are single-family residences zoned SF-5. Land to the west is also zoned SF-5, and is developed with the golf course. Lots located to the extreme eastern edge of the driving range, on North Prairie Dunes Street, have previously been zoned MF-18 and TF-3.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property has been zoned SF-5 since October 2006, and is vacant. The SF-5 district is the most restrictive zoning district located within the City of Wichita, limiting uses primarily to single-family residences and a few public or institutions uses such as churches or schools. Since the property is undeveloped, it could be asserted that the current zoning is not suitable.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The property is fairly isolated from other existing single-family residences by the street layout and the golf course. The lots abutting the application area are part of the original subdivision; therefore, approval of the request subject to the requested Protective Overlay should not negatively impact nearby property.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval presumably represents an economic gain to the owners of the property and would make the property more attractive to potential users by increasing the type of housing that could be built.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for "urban development mix," and the site is located within "Wichita's 2030 urban growth area." The urban development mix encompasses areas of land that will likely be developed or redeveloped with the next 30 years with uses predominately found in the "urban residential" category.
6. Length of time the property has remained vacant: The plat containing the application area was recorded in 2006. The application area is currently vacant.
7. Impact of the proposed development on community facilities: Existing facilities are either in place or can be extended to the site.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **MILLER STEVENS** seconded the motion, and it carried (9-0).

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8. **Case No.: CON2013-00014** – City of Wichita (John Philbrick) and Trek AEC (Alan Degood) / Ferris Consulting (Greg Ferris) request City Conditional Use, Special Permit and amendment to the Oil and Gas District Map to permit oil and gas drilling on property described as:

Part of Reserve "B", Map of West Wichita, Sedgwick County, Kansas, described as commencing at the S.W. Corner thereof; thence N00°00'00"E, along the West line of said Reserve "B", 248.60 feet to the N.W. corner of Lot 1, Sycamore Addition to Wichita, Kansas, Sedgwick County, Kansas, for a point of Beginning; thence N67°23'00"E, along the Northwesterly line of said Sycamore Addition, 100.00 feet; thence N60°29'00"E, along the Northwesterly line of said Sycamore Addition, 274.60 feet to the N.E. corner of said Sycamore Addition; thence N33°39'00"W, along the extended Northeasterly line of said Sycamore Addition, 165.10 feet to the intersection with the center line of vacated 1st. Street; thence N89°49'35"W, along the center line of said vacated 1st. Street, 239.79 feet to the West line of said Reserve "B"; thence S00°00'00"W, along the West line of said Reserve "B", 311.90 feet to the point of beginning.

The item was deferred to the August 8, 2013 Planning Commission Meeting.

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9. **Case No.: CUP2013-00018** – Towne Ease Square (applicant) and Michael Payton (agent) request a City Major Amendment for the LC Limited Commercial zoned DP-12 to allow short

term and seasonal outdoor retail sales, arts and crafts display and sales, farmer's markets, nursery and garden equipment display and sales, display of cars, RVs, boats, farm equipment and motorcycles, outdoor recreation and entertainment, and food and beverage sales associated with all outdoor events on property described as:

Lot One (1) Kellogg Mall Addition, Sedgwick County, Kansas.

The item was deferred to the July 25, 2013 Planning Commission Meeting.

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10. **Case No.: CUP2013-00019** - Towne West Square, LLC (applicant) and Michael Payton (agent) request a City Major Amendment for the LC Limited Commercial zoned DP-71 to allow short term and seasonal outdoor retail sales, arts and crafts display and sales, farmer's markets, nursery and garden equipment display and sales, display of cars, RVs, boats, farm equipment and motorcycles, outdoor recreation and entertainment, and food and beverage sales associated with all outdoor events on property described as:

Lots One (1), Two (2), Three (3), Five (5), Six (6), Ten (10) and Reserve A, all in the Town West Square 2nd Addition, Sedgwick County, Kansas.

The item was deferred to the July 25, 2013 Planning Commission Meeting.

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11. **Case No.: CUP2013-00020** - Felipe's Restaurant Northeast, Inc., c/o Roberto Lujano (owner) an Rick Hopper (agent) request amendment to City DP-56, the Plaza Twenty One Community Unit Plan on the LC Limited Commercial zoned Parcel 2, to allow the outdoor service of food and alcoholic drink on property described as:

Lots 1 & 2, Plaza Twenty-One 2nd Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The LC Limited Commercial zoned site, Parcel 2, is located within DP-56, the Plaza Twenty One Community Unit Plan (CUP). DP-56 is located at the northwest corner of N. Woodlawn and E. 21st Street N. The applicant requests amendment #7 to DP-56 to allow the outdoor service of food and drink. The existing restaurant on the site is permitted under LC zoning and DP-56, liquor is permitted under zoning and the CUP provided the primary service of the restaurant is food. The Unified Zoning Code (UZC) Art.III Sec.III-D.w. requires a Conditional Use for outdoor food and drink service when within 200 feet of residential zoning. Residential zoning and development exists 160 feet north of the site and 120 feet east of the site, across Woodlawn. Because the site is within DP-56, a CUP Amendment is required in lieu of a Conditional Use. The UZC requires the following for outdoor food and drink service: additional parking and restroom facilities are required for occupants exceeding 16 in number; noise shall not exceed five decibels over normal background noise at residential property lines within 1000 feet; the outdoor area shall be screened from residential zoning within 150 feet; lighting shall not interfere with residential use and shall be in compliance with Sec. IV-B.4; the outdoor use shall be in compliance with all other licenses and regulations.

The remainder of DP-56 is developed with a medical office north of the site and retail commercial uses south and west of the site. Outside of the CUP, surrounding zoning and uses include a B Multi-family Residential zoned apartment complex to the north, an LC zoned convenience store and shopping center

to the south, an SF-5 Single-family Residential zoned condominium development across Woodlawn to the east, and SF-5 zoned single-family residences west of the CUP.

CASE HISTORY: DP-56 was approved in 1984. The site was platted as Lot 2, Plaza 21 2nd Addition in 1982.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, B	Medical office, apartment complex
SOUTH:	LC	Strip retail commercial, convenience store, shopping center
EAST:	SF-5	Open space reserve, condominium complex
WEST:	LC	Shopping center

PUBLIC SERVICES: The site has direct access to Woodlawn, a four-lane arterial with a center turn lane at the 21st Street N. intersection. Woodlawn has a 110-foot right-of-way at the application area. DP-56 also has internal cross-lot access. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Wichita-Sedgwick County Comprehensive Plan depicts this location as being appropriate for “Local Commercial,” which contains commercial, office and personal service uses that do not have a significant regional market draw. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request for amendment #7 to DP-56 to allow outdoor service of food and drink on Parcel 2 be **APPROVED**, with the following conditions:

- (1) No outside loudspeakers or entertainment is permitted.
- (2) Outdoor food and drink service shall be developed and operated in conformance with all applicable codes and regulations to include but not limited to zoning, building, fire and health.
- (3) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days of approval or the request shall be considered denied and closed.
- (4) If the Zoning Administrator finds that there is a violation of any of the conditions of the CUP amendment, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the CUP amendment null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** DP-56 is developed with a medical office north of the site and retail commercial uses south and west of the site. Outside of the CUP, surrounding zoning and uses include a B Multi-family Residential zoned apartment complex to the north, an LC zoned convenience store and shopping center to the south, an SF-5 Single-family Residential zoned condominium development across Woodlawn to the east, and SF-5 zoned single-family residences west of the CUP.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LC, which accommodates a wide range of commercial uses. The site could continue to be used for a restaurant without the proposed amendment.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Conformance with the UZC requirements for outdoor food and drink service will prevent the outdoor use from impacting nearby residences. Multi-family housing north of the site is buffered by a commercial building and a street; the condominium development to the east is buffered by Woodlawn Blvd. and a platted reserve.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide” of the Wichita-Sedgwick County Comprehensive Plan depicts this location as being appropriate for “Local Commercial,” which contains commercial, office and personal service uses that do not have a significant regional market draw. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
- (5) **Impact of the proposed development on community facilities:** The requested CUP amendment should have no impact on community facilities.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **MILLER STEVENS** seconded the motion, and it carried (9-0).

The Metropolitan Area Planning Commission adjourned at 1:36 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2013.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan

(SEAL)

Area Planning Commission